

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7161

In Re: MICHAEL MCEVILY,

Petitioner.

On Petition for Writ of Error. (CA-02-112)

Submitted: October 10, 2002

Decided: October 21, 2002

Before WILLIAMS, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael McEvily, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Michael McEvily filed a petition seeking review of a Virginia state statute under the All Writs Act, 28 U.S.C. § 1361 (2000), and an injunction against future enforcement of the statute. McEvily asserts that the statute is ambiguous and therefore unconstitutional. We lack jurisdiction to consider McEvily's petition, and so must dismiss it.

The All Writs Act vests all statutorily created federal courts, including this court, with authority to issue "all writs necessary or appropriate in aid of their respective jurisdictions." See 28 U.S.C. § 1651 (2000). However, McEvily's petition fails to implicate the independent basis for our jurisdiction necessary to proceed under the All Writs Act. See In re Chambers Develop. Co., 148 F.3d 214, 223 n.6 (3d Cir. 1998) (stating that the All Writs Act requires that "the case may at some future time come within the court's appellate jurisdiction"). McEvily's petition fails to allege any active case or controversy. Accordingly, although we grant McEvily's motion to proceed in forma pauperis, we dismiss his petition. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED